

Joshua Guthridge

From: Kirshner, Miles <mkirshner@margolisedelstein.com>
Sent: Thursday, January 26, 2017 9:15 AM
To: Joshua Guthridge
Cc: Joyce Zito; Kyle McGee
Subject: Re: Encompass Insurance Company v. The Stone Mansion

Josh

Thank you for your patience in this regard. I was not ignoring you, and as a matter of professional courtesy, I want to explain why I have not yet returned the Acceptance of Service form.

Noting that there is diversity of citizenship, and an amount in controversy in excess of \$75,000, we are considering removing this action to federal court. While 28 USC §1441(b) generally prevents a resident defendant from removing an action to federal court in its own state, the language of the statute precludes such removal when a resident defendant has been "properly joined and served". We are aware of an opinion from Chief Judge Conti in the Western District of PA, interpreting this to mean that a resident defendant can remove prior to being served.

I fully acknowledge having agreed prior to your filing suit that we will accept service. I maintain that agreement, but because it may affect our client's procedural ability to remove the case, I have to hold off doing so until after the Notice of Removal is filed. I expect this will happen in the next one or two days. Happy to discuss this with you over the phone if you desire.

On Thu, Jan 26, 2017 at 8:54 AM, Joshua Guthridge <JGuthridge@rlmlawfirm.com> wrote:

Miles – Please forward the signed Acceptance of Service when you have a moment. Thanks, Josh

Joshua R Guthridge | [412.281.5431](tel:412.281.5431) (p)

Robb Leonard Mulvihill, LLP

From: Joyce Zito
Sent: Tuesday, January 24, 2017 11:22 AM
To: Kirshner, Miles
Cc: Joshua Guthridge
Subject: RE: Encompass Insurance Company v. The Stone Mansion

Mr. Kirshner:

The docket number for the above matter is GD 17-001348.

Joyce



Joyce Zito
Legal Assistant to Rhonda J. Sudina,
Joshua R. Guthridge, and
Andrew D. Shannon

Robb Leonard Mulvihill LLP
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From: Kirshner, Miles [<mailto:mkirshner@margolisedelstein.com>]
Sent: Tuesday, January 24, 2017 8:45 AM
To: Joshua Guthridge
Cc: Joyce Zito
Subject: Re: Encompass Insurance Company v. The Stone Mansion

I will hold the acceptance of service until I get the docket no.

On Tue, Jan 24, 2017 at 8:44 AM, Joshua Guthridge <JGuthridge@rlmlawfirm.com> wrote:

Joyce – Please forward the docket number to Miles when you get it from the Court. Thank you,

Joshua R Guthridge | [412.281.5431](tel:412.281.5431) (p)

Robb Leonard Mulvihill, LLP

From: Kirshner, Miles [<mailto:mkirshner@margolisedelstein.com>]
Sent: Tuesday, January 24, 2017 8:36 AM
To: Joyce Zito

Cc: Joshua Guthridge

Subject: Re: Encompass Insurance Company v. The Stone Mansion

Do you have a docket number yet?

On Mon, Jan 23, 2017 at 4:51 PM, Joyce Zito <JZito@rlmlawfirm.com> wrote:

Mr. Kirshner:

Attached you will find correspondence, Complaint for Contribution and an Acceptance of Service in regard to the above-captioned matter. The Complaint has been filed with the Court but has not been issued a docket number at the time of this writing. As you agreed, please sign the attached Acceptance of Service and return it to us at your earliest convenience. Should you have any questions concerning this matter, please feel free to call.

Thank you,

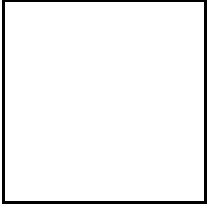


Joyce Zito
Legal Assistant to Rhonda J. Sudina,
Joshua R. Guthridge, and
Andrew D. Shannon

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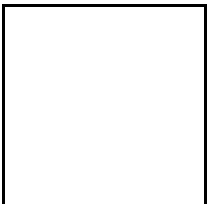
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